IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8763 OF 2004

1. Anton Pedru Fernandes & 7 ors.] .. Petitioners

Versus

1. State of Maharashtra & 3 ors.] .. Respondents

Mr. A.S. Khandeparkar for the petitioners.

Mrs. S.S. Bhende for the respondents.

CORAM: S.B. MHASE, &
R.S. MOHITE, JJ.

DATED: 02ND APRIL, 2007

P.C. :

. Heard.

2. By this Writ Petition, the order dated 7th September, 2004, passed by the Regional Director, Municipal Administration and Divisional Commissioner, Konkan Division, fixing a liability of illegal purchase of computers on the Councillors and the then Chief Executive Officer in the Municipal Council is challenged. The petitioners are the Councillors. After the purchase of the said computers, there was an audit and the Deputy Chief Auditor, Senior Local Fund Audit in

his report for the year 1999-2000 pointed out illegality of purchase of computers. The computers were purchased without there being any budgetary provision for purchase of computers. So also, Mangalam Traders from whom the computers were purchased were not authorized dealers in selling the computers and the rate quoted by Mangalam Traders was not at par with the contract rate of the Industry, Energy & Labour Department, Government of Maharashtra for the relevant year as a result of which the Council sustained a loss and, therefore, under the provisions of The Bombay Local Fund Audit Act, 1930, the enquiry under Section 11(1) was conducted. While holding the said enquiry, notices were given to all concerned and they have filed their replies, either themselves or through their Advocate and thereafter the impugned order has been passed by the concerned authority. The attempt is being made to show that principles of natural justice were not followed while fixing the liability, but, however, on going through the Affidavits, we find that an opportunity was given and thereafter the impugned order was passed. Except this, no illegality in conducting the enquiry under Section 11(1) of The Bombay Local Fund Audit Act, 1930 was pointed out. We find that appropriate enquiry has been conducted and thereafter the impugned order has been passed.

3. There is no merit in the Writ Petition so as to admit the same and, therefore, the Writ Petition is hereby rejected.

Sd/-
[R.S. MOHITE, J.]

Sd/-
[S.B. MHASE, J.]